

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

CATHERINE L. E.,

Plaintiff,

v.

**COMMISSIONER, SOCIAL SECURITY
ADMINISTRATION,**

Defendant.

Case No. 3:20-cv-00457-IM

**ORDER GRANTING PLAINTIFF'S
UNOPPOSED MOTION FOR
ATTORNEY'S FEES PURSUANT TO
42 U.S.C. § 406(b)**

IMMERGUT, District Judge.

Plaintiff Catherine L. E. brought this action seeking review of the Commissioner's final decision denying her application for Disability Insurance Benefits ("DIB") under Title II of the Social Security Act. Complaint, ECF 1. On July 23, 2021, this Court reversed the Commissioner's decision and remanded the case for further proceedings. Judgment, ECF 19. Upon remand, Plaintiff received a fully favorable decision and the Commissioner found Plaintiff entitled to DIB beginning July 2013. Motion for Attorney's Fees ("Mot."), Ex. C, ECF 24-4.

Plaintiff's counsel now seeks an award of fees pursuant to 42 U.S.C. § 406(b). Mot., ECF 24. The Commissioner has not objected to the request. *See id.* at 1–2. This Court has reviewed the record in this case, the motion, and the supporting materials, including the award of benefits, the fee agreement with counsel, and the recitation of counsel's hours and services. Applying the standards set by *Gisbrecht v. Barnhart*, 535 U.S. 789, 796 (2002), this Court finds that the total fee award allowed for under § 406(b) and requested by counsel, \$29,197.25, is reasonable.

Plaintiff's Motion for Attorney's Fees Pursuant to 42 U.S.C. § 406(b), ECF 24, is hereby GRANTED, and Plaintiff's counsel is awarded \$29,197.25 in attorney's fees under 42 U.S.C. § 406(b). Previously, this Court awarded Plaintiff's counsel \$6,989.82 in fees under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412(d). Order, ECF 22. When issuing the § 406(b) check for payment to Plaintiff's attorney, the Commissioner is directed to subtract the amount previously awarded under EAJA¹ and send Plaintiff's attorney, H. Peter Evans, the balance of \$22,207.43, less any applicable processing fee prescribed by law. The § 406(b) check should be mailed to H. Peter Evans at the attorney's preferred mailing address of 222 NE Park Plaza Drive, Suite 113, Vancouver, WA 98684. Any amount withheld after all administrative and court attorney's fees are paid should be released to the claimant.

IT IS SO ORDERED.

DATED this 24th day of October, 2023.

/s/ Karin J. Immergut
Karin J. Immergut
United States District Judge

¹ See *Linnan v. Kijakazi*, No. 3:19-cv-00225-LRH-WGC, 2021 WL 4190636, at *5 (D. Nev. Aug. 26, 2021) (explaining that “[s]ome district courts within th[e Ninth] [C]ircuit . . . simply allow the EAJA award to be offset or subtracted from the [§] 406(b) fee award” and collecting cases), *report and recommendation adopted*, No. 3:19-CV-00225-LRH-WGC, 2021 WL 4189607 (D. Nev. Sept. 14, 2021).